

PUBLIC NOTICE



FEDERAL COMMUNICATIONS COMMISSION

445 12th STREET, S.W.

WASHINGTON, D.C. 20554

DA 03-1064

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WIRELINE COMPETITION BUREAU SEEKS COMMENT ON WESTERN WIRELESS CORPORATION'S PETITION FOR WAIVER OF SECTION 54.314(D) OF THE COMMISSION'S RULES

PLEADING CYCLE ESTABLISHED

CC Docket No. 96-45

Release Date: April 2, 2003

Comment Date: May 2, 2003

Reply Comment Date: May 19, 2003

On March 13, 2003, Western Wireless Corporation (Western Wireless), a competitive eligible telecommunications carrier (ETC), filed a petition with the Commission seeking a waiver of the October 1, 2001 deadline set forth in section 54.314(d)(1) of the Commission's rules, which requires the filing of an annual certification stating that all universal service high-cost support received by Western Wireless will be used "only for the provision, maintenance, and upgrading of facilities and services for which support is intended."¹ Western Wireless's waiver request relates to its receipt of high-cost support for service provided in portions of South Dakota outside the Pine Ridge Reservation. Western Wireless contends that granting its request for waiver of section 54.314 is appropriate in light of the extraordinary delays associated with its ETC designation and, as a result, the delay in the filing of the section 54.314 certification by the South Dakota Commission.² Western Wireless further argues that granting its waiver request will advance the public interest and benefit consumers in rural areas of South Dakota by promoting the provision of universal service at affordable rates and adhering to the Commission's principle of competitive neutrality.³ Western Wireless, therefore, requests that

¹ 47 C.F.R. § 54.314; *Western Wireless Corporation Petition for Waiver of Section 54.314(d) of the Commission's Rules*, filed March 14, 2003 (*Western Wireless Petition*).

² *Western Wireless Petition* at 2.

³ *Western Wireless Petition* at 2, 8. See also *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432, 20479-78, paras. 89-90 (1999) (*Ninth Report and Order*), reversed in part and remanded in part, *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001). See also *Federal-State Joint Board on Universal Service; Promoting Deployment of Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45,

the Commission grant its waiver request so that it can receive high-cost support retroactively as of the first quarter of 2003.

We invite comment on the Petition for Waiver. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before May 2, 2003; and reply comments on or before May 19, 2003. All filings should refer to CC Docket No. 96-45. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

Comments filed through ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is CC Docket No. 96-45. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message: get form <your e-mail address>. A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Parties who choose to file by paper are hereby notified that effective December 18, 2001, the Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, DC. The address is 236 Massachusetts Avenue, NE, Suite 110, Washington, DC, 20002. The filing hours at this location will be 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. This facility is the only location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. Accordingly, the Commission will no longer accept these filings at 9300 East Hampton Drive, Capitol Heights, MD, 20743. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service (USPS) Express Mail and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD, 20743. This location will be open 8:00 a.m. to 5:30 p.m. The USPS first-class mail, Express Mail, and Priority Mail should continue to be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC, 20554. The USPS mail addressed to the Commission's headquarters actually goes to our Capitol Heights facility for screening prior to delivery at the Commission.

Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264-65, para. 114 (2000) ("competitively neutral access to ... support is critical to ensuring all Americans, including those that live in high-cost areas, have access to affordable telecommunications.").

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| Hand-delivered or messenger-delivered paper filings for the Commission's Secretary | 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 a.m. to 7:00 p.m.) |
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| Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) | 9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.) |
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| United States Postal Service first-class mail, Express Mail, and Priority Mail | 445 12th Street, SW Washington, DC 20554 |
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All filings must be sent to the Commission's Secretary: Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC, 20554.

Parties who choose to file by paper should also submit their comments on diskette to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Room 5-B540, Washington, DC, 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case, CC Docket No. 96-45), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554.

Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC, 20554. In addition, the full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center,

Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

For further information, contact Thomas Buckley, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400, TTY (202) 418-0484.